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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,205	12/22/2000	Charles L. Brabenac	884.336US1	1318
21186	7590	04/10/2006	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH 121 S. 8TH STREET SUITE 1600 MINNEAPOLIS, MN 55402			TRUJILLO, JAMES K	
			ART UNIT	PAPER NUMBER
			2116	

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/746,205	<b>Applicant(s)</b> BRABENAC, CHARLES L.	
	<b>Examiner</b> James K. Trujillo	<b>Art Unit</b> 2116	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 2, 5, 9, 12, 13 and 15-38.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
James Trujillo  
Patent Examiner  
Tech Center 2100

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 4 June 2004 have been fully considered but they are not persuasive.

Applicant's arguments filed 4 June 2004 have been fully considered but they are not persuasive.

Claims 2-3, 5, 9 and 12-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham-Cummings, Jr., U.S. Patent 6,182,146 (hereinafter Graham), in view of Applicant's admitted prior art (AAPA).

Applicants argue in substance that the action does not show that the claimed combination is suggested because there is no evidence of suggestion to combine Graham and AAPA. Applicants further argue the Office Action does not show a suggestion or modification is found in Graham and request the Examiner point out the column and line number in Graham where the motivation is found to combine Graham with AAPA.

The examiner does not disagree with the applicants that Graham does not show a suggestion or modification with AAPA. Graham is directed toward filtering packets to be processed appropriately. The suggestion or motivation to combine comes from AAPA and knowledge generally available to those persons of ordinary skill in the art.

As per the previous office actions and applicants arguments, Graham teaches all the limitations except "when there is a host application assigned to the port number, sending a wake-up message to a host computer", "when there is a host application assign to the port number, sending a wake-up message to the host computer", and "send a wake-up message to a host computer when there is a host application associated with the port number". Clarifying the arguments and position previously presented, Graham teaches that a packet comprising a port number will be directed to a host computer when there is a host application associated with the port number allowing the packet to be provided to the associated application for processing (passing the packet to the application to be handled). Graham teaches that if the packet does not comprise a port number with an associated host application it will be discarded and therefore no handling (processing) by the application will take place. Graham therefore teaches to one of ordinary skill in the art that processing will be performed when packets comprising port numbers with associated host applications are present and no processing will take place otherwise [figures 6, 7, col. 6 lines 18-21, col. 11 lines 14-36 and col. 12 lines 35-52]. Graham is silent with respect to the power consumption aspect of his particular invention. However, the state of the art is such that reduction of power is great concern to all types of computer systems and would be desirable in systes such as that of Graham. Those of ordinary skill in the art will appreciate that reducing power consumption appropriately will among other things reduce costs directly and indirectly. Reducing power consumption directly saves power because less power is used by the computer system. Unnecessary heat generated by a computer system is not desirable must be dissipated, which requires additional power in the form of cooling systems. Thus, reducing power in computer systems is highly desirable when appropriate (when processing is not required). Therefore reduction of power would be desirable in Graham as well.

AAPA teaches that a host computer saves electricity (reduces power consumption) by entering a power-managed state when packets are not received and processed. AAPA further teaches that when a packet is to be processed a wake up signal will be sent to wake the host computer to process the received packet [page 2 lines 7-14].

It would have been obvious to one of ordinary skill in the art having Graham and AAPA before him at the time the invention was made, to modify the host computer disclosed by Graham to include the power-managed states as taught by AAPA wherein the host computer is woken only when processing is required in Graham, in order to reduce power consumption thereby reducing costs of operating a system. That is, when the packet comprises a port number with an associated application the host computer of Graham would be woken up. Achieving the power reduction would necessitate sending a wake-up message to a host computer only when the packet comprises a port number with an associated application.

Thus, the suggestion or motivation to combine is found in AAPA and in knowledge generally available to one of ordinary skill in the art.

Applicants argue in substance that the Office Action uses improper hindsight to establish obviousness. As per the arguments above, it is believed that no hindsight has been used to establish obviousness. The examiner has used the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art as well as the current state of the art.

Applicants lastly argue that the action does not show some knowledge generally available to one of ordinary skill in the art that would lead to an individual to combine Graham and AAPA. The examiner disagrees. As per the arguments above, it is believed that such knowledge is generally available and would lead one of ordinary skill to combine Graham and AAPA..